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VIENNA FOR FAS PSPENCER

BUDAPEST FOR ENVIRO HUB

E.O. 12958: N/A

TAGS: ETRD EAGR TBIO HR

SUBJECT: BIOTECH LEGISLATION ON THE MOVE IN CROATIA

REF:A) 02 ZAGREB 2102

B) 02 ZAGREB 2253

C) 02 ZAGREB 2576

D) 02 ZAGREB 2977

E) ZAGREB 1061

Summary

**11.** (SBU) Over the last several months in Croatia, several pieces of legislation have been introduced which seek to regulate the import and cultivation of biotech crops and foods. The embassy and FAS Vienna have engaged the government on a number of fronts to stop to stop

legislation that, in the case of one parliamentary proposal, would temporarily ban GM products. We are also trying to soften restrictive measures that are contained in two pieces of proposed legislation (the Food Law and Law on Protection of Nature). While the government has discarded its earlier intention to ban the import and sale of biotech products, it feels, probably correctly, that for any law to have chance of passing it must follow EU's outline for traceability and labeling. In the meantime, the government and importers appear to be maintaining an "informal" ban on GMOs, which is costing U.S. exporters \$12-\$15 million a year in lost soybean sales. End Summary.

Temporary Ban Revisited

**12.** (SBU) In early May, we learned that two draft bans on GMOs had appeared on the parliamentary agenda. Both drafts were submitted by political parties, not the government. One, a total, indefinite ban on GMOs, was proposed by the HSP -- Croatian Party of Rights, a tiny far-right party. Conventional wisdom was that party's marginal status would preclude the bill from getting serious consideration. The second bill, which called for a total ban on the import and sale of GMOs until legislation regulating its planting, distribution and sale were in place, was introduced by the HSS - the Croatian Peasants Party -- the second largest party in the ruling coalition.

**13.** (SBU) Drawing heavily upon the points used by the embassy the first time a ban on GMOs was proposed in Fall 2001, we urgently demarched Marijana Petir, Spokesperson of the HSS and prominent environmental activist (points emailed to EUR/SCE). The HSP bill was voted down. The HSS bill was voted on and passed its first reading, but was taken off of "urgent procedure" -- which would have meant that it would have become law immediately -- and put on the shelf awaiting a second reading. While this allows the HSS to have a campaign issue, in reality the bill is unlikely to come up for a second reading before parliamentary elections, expected in the fall.

We'll Protect You!

**14.** (SBU) Last year the government told the public that it would, before the end of the year, pass legislation to regulate the import and sale of GMOs. The government told us that it felt the need to address the concerns of consumers, meet its obligations to bring its laws into line with EU directives, and divert calls for an outright ban. A number of legislative initiatives

dealing with consumer protection, food, and environmental issues are under consideration and they all touch upon GMOs in some way. While the government did not make its 2002 deadline for biotech legislation, it is intent on getting these laws passed by the end of the current legislative year, partly to make progress with EU accession and partly to have something to show the electorate in the Fall (the most likely time for parliamentary elections).

#### Consumer Protection Law

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15. (SBU) Last fall, we commented on GM-labeling requirements in the draft consumer protection law (ref A). Assistant Minister Spevec assured the Ambassador, during a meeting with Minister of Economy Jurcic, that she had reviewed the law, agreed with our assessment that the labeling requirements went beyond even what the EU required, and she had ordered the language be deleted (ref B).

16. (SBU) The legislation finally passed parliament on June 4th. Our preliminary review of the law indicates that the Ministry of Economy hedged its position by deleting all mention of "genetically modified" products. Instead, the legislation requires manufacturers to provide consumers with information about the existence of "transformed" products, including transformed ingredients and supplements, as well as the type of transformation, in accordance with "subsequent regulation." It is unclear whether this is a reference to the food law (which is generally considered to be the main legislation on labeling), or subsequent implementing regulations for the consumer protection law.

#### Law on Protection of Nature

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17. (U) This law has passed its first reading and is undergoing changes in committee before getting a second reading, probably late in June. We are in the process of preparing comments for the Ministry of Environment, which is in charge of drafting the law (we have sought input from USEU and USDA/W). We had discussed the law in general last fall during the visit of biotech speaker Lisa Katic (ref c). The draft legislation would require licenses for the import, transport and introduction into the environment, and placing into the market of GMO products, principally seed. Regulation of food and feed is specifically deferred to the food law, and GM drugs to a future law.

18. (SBU) Labeling of GM seeds would be required, which may not be an issue for the seed companies, since GM seed usually attracts a higher price, and is a selling point for those that wish to purchase it.

19. (SBU) Encouragingly, GM seed imports could be approved by a shortened procedure if there is enough data and experience with release of the product into the environment. Hopefully, this would mean that products already approved in the EU (and we would argue, in the U.S.) would be quickly approved in Croatia as well.

#### Food Law

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110. (SBU) We regularly raise the issue of biotechnology in our discussions with the Ministry of Agriculture,

including in a discussion between the Ambassador and the Minister (ref D). When we learned that the draft law was soon to be introduced into Parliament, we sent preliminary comments on June 4 to the Ministries of Agriculture (principal sponsor of the bill), Economy, Foreign Affairs, Environment and the advisor to the Deputy Prime Minister, and expanded comments June 16th. The provisions of the law concerning GMO (covered as a "novel food" in the draft) and our comments were:

-- Special permits, issued by Ministry of Agriculture, will be required to put GM food and feed products on market. The permit should be issued based on a scientific opinion of a biotech committee in the new food agency (the details of this committee will be spelled out by the Minister of Health with consent of the Minister of Agriculture in future regulations).

US Embassy Comment: Any "committee" system should be transparent. It is important that non-scientific prejudices not be allowed to block applications. We encourage the inclusion of industry representative on this committee.

-- Novel food can be banned from market entry if it is scientifically determined to harm human health. Novel foods may also be temporarily banned if there is scientific uncertainty (decision by the Ministry of Health with consent the Ministry of Agriculture).

U.S. Embassy Comment: We are concerned that this could lead to the non-scientific application of the so-called "precautionary principle" for novel foods. There is "scientific uncertainty" in even the most respected and widely applied food safety rules. The degree of risk is what matters, not the fact that risk is present. All foods, additives, processes, etc., contain an element of risk. Why are novel foods being treated under a separate regulatory framework? (Please also see the WTO SPS Agreement, Article 5, Paragraphs 1 and 2, to determine Croatia's international obligations on this point.)

-- Novel foods will have to have a label that states specific information that informs the consumer about differences of novel foods comparing to standard food, and about the process of change. Food containing GMOs must be labeled with "this product contains GMO." Foods that derive from GMOs but that do not contain GMOs must be labeled as "this product derives from GMOs."

U.S. Embassy Comment: We note that the proposed labeling does not convey any health related information. The label will essentially be ideologically-based and will not provide consumers with any science-based conclusions about the product.

The labeling provisions will also be technically impossible to enforce and will be open to fraud. For example, how will Croatian authorities know if soybean oil from Brazil was made from GM soya? There is no reliable scientific method to test soybean oil to determine if it has been made from GM plants. Also, it is unclear what the threshold level will be for labeling.

Labeling of all foods that are made with GM-derived vitamin supplements, GM-derived enzymes (cheese), GM-yeasts (beer), etc., is also not feasible and will result in many unintentional violations. In many instances, there is no scientific way of proving whether

foods are derived from GM-plants or bacteria.

Enforcement of the law will necessarily be very selective and aimed at imported products.

However, we note that exempting domestic manufacturers from labeling because they are currently widely used or because non-GM varieties are not available (as has been proposed recently in Parliament) could be a violation of the WTO's principle of national treatment.

The U.S. Government believes that labeling should convey material facts. We are concerned that requiring labeling when there is no material difference in the product will lead to discrimination. We support voluntary labeling (such as the "organic" label used in the United States, or "GMO-free") when the manufacturer believes that the customer puts a premium on that characteristic.

-- Feed containing GMO would have to be labeled accordingly, but details will be prescribed by the Ministry of Agriculture.

Embassy comment: similar to comment for food.

-- Penalties for the violation of the law are from 100,000 to 500,000 Kn for a company and 5,000 to 10,000 Kn for any responsible individual or employee. (Note: currently the exchange rate is approximately 6.5 kunas to the dollar.)

U.S. Embassy Comment: These are the highest penalties contained in the draft law. Given the fact that other food safety issues are actually harming consumer health in Croatia (e.g., trichinosis, lysteria, etc.) it is interesting that other violations of the law do not result in such strong sanctions.

¶11. (SBU) We spoke to Assistant Minister Miroslav Bozic shortly after we sent the Ministry preliminary comments. He said he generally agreed with our comments, except in the areas of labeling and testing. He believed that consumers demand labeling, and fraud in declaration can be prohibited. Bozic appealed for understanding. He noted that Minister Pankretic (who is a member of the HSS -- the same party that proposed a ban) has withheld considerable pressure from his party in allowing the food law to be drafted in a way that "opens the doors to GMOs." Bozic reported that he had appeared on

television the night before to defend the food law, and had to rebut ridiculous arguments such as "why do we need GMOs?"

¶12. (SBU) In this conversation with A/M Bozic, we noted that while labeling sounded reasonable in theory, in practice, in other European countries, labeling had led to a lessening of consumer choice, since "environmental" NGOs had frightened grocers out of carrying GM products. In Croatia, importers of soy products had told us that they were not buying US soy beans, because of the fear of being stigmatized, yet were buying Argentinean and Brazilian soy, much of which was probably GM, despite certificates to the contrary (see para 15).

#### Media Announces Victory for GMOs

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¶13. (SBU) While the Embassy has a number of concerns with the proposed Food Law, the press has proclaimed that the legislation will "open the doors to GMOS." This has caused a gnashing of teeth from the more

strident NGOs. A producers' NGO, the Community of Farmers Assembly from Slavonia and Baranja (ZUSSB), held a press conference last week to express their shock at Government decision to allow import of GM food. They invited consumers not to buy such products and even to go a step further by "throwing" such products off the shelves.

#### But Victory not in Sight

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¶14. (U) Prominent environmental NGO, Zelena Akcija (a.k.a. Green Action, which is associated with the U.S. NGO Earth First), also published a "black list," "white list" and "green list" for foods. The "black" list is for companies that could not or would not certify that they did not use or import GMOs; the "white" list is of companies that expressed a desire to be GM-free but could not certify all their sources; and, on the "green" list are companies that feel they could certify their GM-free status. This is the second such attempt by Zelena Akcija to create such a list. In a visit last year to the food industry committee of the Croatian Chamber of Economy, Zelena Akcija's activities were cited as a factor in the Croatian industry's fear and distrust of biotech.

¶15. (SBU) As mentioned above, a major food and feed importer told us that it had stopped importing US soy products as part of an "informal ban" on U.S. products which could contain GMOs. This "informal ban" was also acknowledged by a Croatian public health official. While the Croatian official maintained that soy imports from Brazil (the leading source country for soya for Croatia) were tested for GMOs in Slovenia, the Croatia importer told us that there was no testing being done; he and his counterparts simply requested and got "GM-free" certificates from their suppliers. U.S. soybean and soy meal exports to Croatia went from \$12-\$15 million annually to zero today. The decline mirrors the adoption of GM-soybeans in the United States.

¶16. (U) Prominent weekly magazine Globus conducted a poll of 600 respondents to determine the attitudes of Croatians towards GMOs. 66 percent said they would not accept GMOs in Croatia, and 16 percent said they would not mind. 60 percent feared that such food would not be properly labeled and only 15 percent said they would buy it.

#### Mission Outreach

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¶17. (SBU) The Embassy and USDA/Vienna are working together to change those numbers, by countering the grotesque misinformation campaign against biotech. As mentioned earlier, the Embassy hosted a roundtable with a biotech speaker from the grocery industry last fall. The speaker also visited associations and government officials to answer often-hostile questions. We sent a group of four parliamentarians (two of them from the HSS) on a biotech study tour of the U.S. in March (ref E). These parliamentarians, all from farm areas, came back more inclined to believe our assurances that the environmental and health risks of biotech are minimal. We plan a repeat for next year, focusing on some of the people most opposed to biotech, including the president of Zelena Akcija.

¶18. (SBU) In February, USDA/Vienna brought in one of the FDA's chief regulators, Dr. Jim Maryanski, to give a lecture at a biotech conference and participate in a

lunch for regulators and trade groups. This month, USDA/Vienna sponsored Richard Sellers from the American Feed Industry to speak at the annual Krmiva feed show -- the largest event of this type in the region. Mr. Sellers met with a number of industry representatives and described how the U.S. feed industry has taken advantage of the current generation of GMO crops. The Embassy currently seeks funding to help a local biotech ally (the head of the Croatian Association of Bio-geneticists and a passionate critic of "junk science") produce a home-grown pro-biotech public information pamphlet.

Comment

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119. (SBU) It is tempting to look at the headlines decrying the "opening of Croatia to GMOs" and declare victory. Unfortunately, it would be illusory. It is difficult to see a breakthrough soon. The chances of Croatia passing laws that depart from EU norms on GM labeling and licensing are negligible. If the current proposed laws pass, most if not all grocers and food producers may well be afraid to source and sell biotech products because of public perceptions and threats of NGO protests in their stores. And the status quo -- no restrictions on paper yet an informal but effective shunning of U.S. products is hurting U.S. farm exports.

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